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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PP Docket No. 93-21

To: The Commission

Tribune Broadcasting Company ("Tribune") submits these Reply Comments to respond briefly to a number of inaccurate and misleading statements in the Comments filed by the Office of the Commissioner of Baseball ("MLB") in this Docket on April 11, 1994.

While explaining, correctly, that a television station considers a number of factors in deciding whether to bid for the right to televise baseball games, and how many to carry (Comments at 8-9), MLB cites its favorite scapegoat -- superstations -- as a substantial factor in causing any undesirable migration of sports telecasts the Commission might find. MLB's criticisms are unsubstantiated and unwarranted.

MLB has the audacity to accuse the Commission of contributing to "a lack of interest on the part of some broadcasters in televising baseball." MLB Comments at 14. The

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Commission earned this condemnation, MLB explains, by denying MLB's petition in CSR-3441. There, MLB asked the FCC to rule that the home and visiting teams' separate telecasts of the same baseball game are the same "network program" for purposes of the network nonduplication rules. *Id.*, 14-16. The Commission denied the petition, correctly concluding that MLB sought to stretch the definition of "network program" beyond recognition. Major League Baseball, 6 FCC Rcd 5573 at ¶ 11, 69 R.R.2d 1242, 1244 (1991).

MLB now suggests (Comments at 15-16) that the 1991 decision contributed to several stations' recent decisions to discontinue their baseball telecasts or reduce the number of games they carry. However, MLB fails to point to a single station that claims its actions had anything to do with the inability to black out games in the manner sought by MLB (*i.e.*, in the small number of cases where both the local station and a superstation televise the same game). Indeed, in the Major League Baseball proceeding, Tribune demonstrated that KPLR-TV, St. Louis was televising a disproportionately large number of games against the New York Mets, Atlanta Braves and Chicago Cubs — all teams whose games are carried on superstations. (Opposition of Tribune Broadcasting Company to Petition for Special Relief, filed October 4, 1990, at 16-17.)*

Thus, it is ludicrous for MLB to suggest that "the

* This remains true in 1994. Fully 25% of KPLR-TV's 60-game telecast schedule this year consists of Mets, Braves and Cubs games.

Commission's refusal to protect the broadcasters' exclusivity" is "an important factor" that must be considered in assessing migration (MLB Comments at 15). The "exclusivity" the Commission assertedly failed to "protect" never existed — it was a new right to black out competing telecasts that MLB sought to create through a grotesque construction of the network nonduplication rules. The Commission has concluded that sagging ratings, not a shortage of "exclusivity," are the probable reason there are more games on cable television today. Interim Report at ¶ 44.

Finally, if years of superstation telecasts have the inevitable result of suppressing local telecasts and depressing ratings, as MLB suggests, one wonders why the Colorado Rockies expansion club is now televising 80 games a year (well above the MLB average, see MLB Comments, Exhibit 1), with excellent ratings* and record-breaking home attendance.

B. Regional TV Networks.

MLB asserts that superstation baseball telecasts are a "key factor" in reducing local stations' interest in televising baseball games. Comments at 18-19. Interestingly, MLB fails to mention the impact of the ESPN telecasts (which last year were carried four days a week, with doubleheaders on two nights) or regional cable network telecasts.

* Tribune's KWGN-TV, Denver is the Rockies' flagship station. Its Rockies telecasts in 1993 averaged a 9 rating and 21 share. This year, the average for eight games has been a 12 rating and 26 share.

MLB then accuses superstations of a conflict of interest in hindering the development of regional broadcast networks, noting that of the seven clubs who have no such networks, six have superstations as their flagships. Id., 19. MLB's statements are misleading and in some cases erroneous.

Tribune stations hold the right to televise games of four of the six teams cited by MLB. In only one case, involving the Chicago Cubs, does the television station control the regional broadcast network rights by contract, and in that case the station does not, in fact, act as marketing agent.* As MLB is well aware, in the other cases — the White Sox, Dodgers and Angels — the rights are retained and controlled by the club, which is free to exploit them.

The MLB Comments contain other errors. In the case of the White Sox, there is a regional broadcast network, albeit a small network of two stations. It exists, however, despite the fact the White Sox flagship station is a superstation. In the case of the Cubs, there is no regional network this year, though there was such a network until 1993 and the intention is to resume network operations in 1995. Stations' lack of interest in televising the games — caused primarily by the Cubs' on-the-field performance, low ratings and the state of the local sports advertising market — is the primary reason there is no Chicago Cubs Television Network this year.

* Tribune Entertainment Company, a Tribune subsidiary, markets these telecast rights.

There is no factual basis for MLB's assertion that WGN's superstation status doomed the Cubs network's operations. Indeed, considering that WGN-TV has been available to cable operators by satellite since 1978 and was available by microwave long before that, it would be difficult to make the argument credibly that this effect was felt for the first time in 1994.

Similarly, MLB's assertion (Comments at 20) that WGN refused to permit network nonduplication protection, resulting in the demise of the Cubs' regional broadcast network in 1994, is unattributed and unverified hearsay. Like MLB's other claims that superstations are responsible for a reduction in the amount of baseball shown over the air, these claims do not provide a basis for disturbing any of the Commission's previous findings.

CONCLUSION

In its Interim Report in this Docket, the Commission observed that the phenomenon of sports migration in baseball, to the extent it exists, defies simple explanation and varies from market to market. Tribune endorses the Commission's decision in the Interim Report to continue to monitor this issue closely, id., ¶ 44, and urges the Commission to continue its scrutiny of sports migration trends. At the same time, the Commission should reject MLB's attempt, without benefit of evidentiary support, to have it both ways -- by denying that any migration problem

exists, while urging that superstation telecasts are a "key factor" in any migration problem that the Commission may find to exist.

Respectfully submitted,
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